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does not need logistical support, supplies, training, and other assistance from a sponsoring organization. The May 22 Rishon Letzion bombing and the June 9 Megiddo bombing were committed after these disavowals and criticisms of children's participation. The May 22 attack was carried out by 'Issa Bdeir at sixteen; the youngest suicide bomber to date. The al-Aqsa Brigades and Islamic Jihad claimed responsibility for those respective attacks.

Some Hamas leaders have been more forthright about their readiness to recruit children to participate in hostilities. In a "discussion" posted on the 'Izz al-Din al-Qassam Brigades website, Salah Shehadeh, the late leader of the militia, was asked how he dealt with the "phenomenon" of "young boys [*shabab*] seeking martyrdom without approaching any of the military agencies." He replied, "It is an indicator of the positive consciousness of Palestinian society and not a fault.... If some young people are not abiding with the regulations of the military agency and were not officially linked to it, this is proof that the nation of Islam [*umma*] has become a jihadist *umma* that refuses disrespect and oppression...." Shehadeh goes on to say, that "this trend...could be misused" and that "there is a need to instruct those children [*al-ashbal*] in a special military section that gives them a jihadist military education so that they can distinguish right from wrong and know when they are capable of carrying out a martyrdom operation and when they should not."²⁵⁶

There have been several reports of segments on PA television that explicitly encourage children to take part in clashes with Israeli forces and extol the virtues of martyrdom.²⁵⁷ In recent months, lively discussion about the effects of such programming on children has taken place in the Palestinian community.²⁵⁸

On August 26, 2002, the Palestinian Journalists Syndicate called on Palestinian armed factions to stop using children, and declared that it was "absolutely forbidden" for photojournalists to take pictures of children carrying weapons or taking part in militant activities. The statement said that footage of armed children served "the interests of Israel and its propaganda against the Palestinian people." Tawfiq Abu Khousa, deputy chair of the syndicate, said, "We have decided to forbid taking any footage of armed children, because we

²⁵⁶ See <http://www.qassam.net/chat/salah3.html> (accessed August 8, 2002). Translated by Human Rights Watch.

²⁵⁷ "The Anatomy of Child Self-Sacrifice" was a video shown on Palestinian Media Watch, July 2001 at <http://www.pmw.org.il>, though it is no longer available.

²⁵⁸ Ashraf al-Ajrami, "Why Palestinian Children Become Martyrs," *al-Ayyam*, May 6, 2002.

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consider that as a clear violation of the rights of children and for negative effects these pictures have on the Palestinian people."²⁵⁹

It is the encouragement of children to carry weapons and take part in armed activity that is wrong, not media coverage of these activities. The PA has publicly endorsed the Convention on the Rights of the Child and has urged respect for the provisions of the Optional Protocol to the CRC on Involvement of Children in Armed Conflict.²⁶⁰ The PA should take steps to prevent the recruitment and use of persons under eighteen years of age in hostilities. These steps should include adoption of legal measures to prohibit and criminalize such practices, a public education campaign to ensure that this policy is widely communicated, and measures to ensure that materials produced with PA funding, or media outlets supported by PA funding, do not encourage children to participate in military activities.

²⁵⁹ "Palestinian group warns journalists," Associated Press, August 26, 2002.

²⁶⁰ Statement of Dr. Emile Jarjou'i, Special Session of the General Assembly on Children, May 9, 2002. In 2001, the PA participated in a regional conference on child soldiers that resulted in the Amman Declaration that says participants "solemnly declare that the use in hostilities of any child under 18 years of age by any armed force or armed group is unacceptable." See Amman Declaration on the Use of Children as Soldiers, April 10, 2001.

VI. FINANCIAL AND LOGISTICAL SUPPORT

Under international law, those who assist, aid, or abet crimes against humanity are individually responsible for the resulting crimes. Both governmental and private organizations have provided financial and logistical support to groups responsible for suicide attacks against civilians. Others have given funds to groups that may have been diverted to fund such activities, or, through the provision of large cash payments to perpetrators' families, have rewarded those who carried out such attacks. This section discusses the varying means by which regional governments and other entities have tangibly supported suicide bombings.

Funding Overview of Perpetrator Groups

Several governments, notably the United States and Israel, have asserted that Hamas receives funding for armed activities and logistical support from governments in the region, including Iran and Syria. Hamas has also received extensive support for its social programs and military activities from individuals and charitable foundations in Saudi Arabia, other countries in the Gulf area, the United States, and elsewhere. One recent press report cites Israeli intelligence experts as saying that Hamas's annual operational income "tops at least \$20 million a year."²⁶¹ Although exact figures are not known, a considerable portion of Hamas's resources are devoted to charitable and social programs. A Western diplomat based in the region and familiar with Palestinian political organizations told Human Rights Watch that the proportion of Hamas finances devoted to armed activities "represents a small portion of their resources."²⁶² Asked about reports of state funding of Hamas, the group's spokesman, Ismail Abu Shanab, told Human Rights Watch that the organization gets no financial support from "formal sources," and that this was one expression of the group's "independence."²⁶³

In contrast to Hamas's complex and varied financial structure, Islamic Jihad is generally thought to derive almost all its funding from state sponsors, particularly Iran. According to the U.S. State Department, Islamic Jihad receives financial assistance from Iran and "limited logistical support assistance" from

²⁶¹ Larry Kaplow, "Background: Israel's Adversaries: Hamas: Back-seat driver to Arafat group; Palestinian-run movement opposes the peace process," *Atlanta Journal-Constitution*, January 24, 2002.

²⁶² Human Rights Watch interview, name withheld, Jerusalem, June 6, 2002.

²⁶³ Human Rights Watch interview with Ismail Abu Shanab, Gaza City, May 15, 2002.

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Syria.²⁶⁴ According to the Israeli government, documents captured by the IDF in PA offices in April 2002 indicate that Islamic Jihad received “massive financial aid” from the group’s headquarters in Damascus, but documents supporting this assertion have not been made public.²⁶⁵ One publicly available document, a report from the Palestinian National Security Forces in Jenin to the West Bank head of the PA General Intelligence Services (GIS), Tawfiq Tirawi, states that Islamic Jihad operatives in Jenin received funds via bank transfer from Ramadan Shalah, the Islamic Jihad secretary-general in Damascus, but does not indicate the amount of money thus transferred.²⁶⁶ The transfers included financial assistance for the families of Islamic Jihad members in prison or killed, as well as support for Islamic Jihad military operations.

The al-Aqsa Martyrs’ Brigades appear to have benefited from the routine misuse of PA funds. Arafat and other senior PA officials, as well as many rank-and-file Fatah members, have overlapping identities as employees or officials of the PA, on the one hand, and as members of Fatah on the other. This dual identity appears to have facilitated the use of PA resources to fund Fatah activities directly and indirectly, including payments to individual al-Aqsa Brigades activists (discussed in Section VII). Yet the al-Aqsa Brigades appear to have had more limited resources than Hamas or Islamic Jihad, at least in the northern West Bank. Kamal Yusuf Shihab, a mid-level al-Aqsa Brigades militant in Nablus, received no salary or stipend as a militant and continued to work as a mechanic. “He worked his job during the day and was a militant at night,” his brother told Human Rights Watch.²⁶⁷ ‘Ata Abu Rumaila, a Fatah leader in Jenin refugee camp, told Human Rights Watch that militants there received “no support” from the PA and that weapons had been “bought out of our own pockets.”²⁶⁸ In one captured document, on the letterhead of the al-Aqsa Martyrs’ Brigades in Jenin governorate and addressed to Fatah secretary-general Marwan Barghouti, the writer complained, “At the same time the Islamic factions receive all the financial aid they require for working and for purchasing

²⁶⁴ U.S. Department of State, *Patterns of Global Terrorism 2001*, Appendix B, May 15, 2002, p. 103.

²⁶⁵ See IDF report, “Jenin: The Capital of Suicide Terrorists,” circa April 19, 2002 at <http://www.idf.il/english/news/jenin.stm> (accessed September 3, 2002).

²⁶⁶ “Cooperation between Fatah and the PA Security Apparatuses with Islamic Jihad and Hamas in the Jenin Area”, IDF, April 9, 2002 at http://www.idf.il/jenin/site/english/main_index.stm (accessed September 3, 2002).

²⁶⁷ Human Rights Watch interview with Lu’ay Shihab, Nablus, June 8, 2002.

²⁶⁸ Human Rights Watch interview with ‘Ata Abu Rumaila, Jenin refugee camp, June 11, 2002.

arms. They recruit boys with motivation in that they supply them with arms, give them a monthly salary, and solve all their economic problems."²⁶⁹ This situation, at least in the Jenin area, may have led to financial assistance from the local Islamic Jihad group to al-Aqsa Martyrs' Brigades.²⁷⁰ No action or authorization is indicated on the document.

Little is known about funding of the PFLP. Like Islamic Jihad and Hamas, it has a headquarters in Damascus. According to the U.S. State Department, the PFLP receives logistical and safe haven assistance from Syria, and has training facilities in Syrian-controlled areas of Lebanon. One U.S. government analyst told Human Rights Watch that the high-profile killing of the Israeli minister of tourism in September 2001 had enabled the PFLP to attract new external sources of support, but provided no details.²⁷¹

State Support for Suicide Attacks Against Civilians

Iran

Perhaps the most frequently cited example of state support for suicide attacks against civilians are the money and training that Iran provides to Hamas and Islamic Jihad. The U.S. government has attributed Iran's support for armed activities to two institutions: the Revolutionary Guard Corps and the Ministry of Intelligence and Security. Both institutions are accountable only to Iran's Supreme Leader, Ayatollah Khamenei. Iranian officials have routinely denied such allegations of support.²⁷²

²⁶⁹ See Document A, the letter dated September 25, 2001 in IDF report, "Jenin: The Capital of the Palestinian Suicide Terrorists," p.16.

²⁷⁰ On the lack of funding, see IDF Document 8, "The Al-Aqsa Martyrs Brigades and Fatah Organization are One and the Same.... [F]ragment of a letter allegedly from the Fatah movement in Jenin Refugee Camp to Marwan Barghouti," September 25, 2001; IDF Document 9, "Report on letterhead of the al-Aqsa Brigades of Jenin governorate to Marwan Barghouti," 8 May 2001; "Letter from Khaled 'Abd-al Azia Muhammad Sif to Marwan Barghouti," (undated); and IDF Document 3, "Additional Captured Documents Reveal Again the System of Money Transfers to Terrorist Squads, Personally Authorized by Yasser Arafat, with the Deep Involvement of Marwan Barghouti," IDF, June 24, 2002, TR6-498-02. For the allegation that Islamic Jihad gave financial support to the al-Aqsa Brigades, see "February 4, 2002 report to the head of Palestinian General Intelligence from Abu Aziz " in "The Cooperation Between Fatah and the PA Security Apparatuses with PIJ and Hamas in the Jenin Area," IDF, April 9, 2002 TR3-268-02, p. 15.

²⁷¹ Human Rights Watch interview, name withheld, Washington, DC, June 12, 2002.

²⁷² The charge has also come from PA officials. Haidar Irshaid, the acting governor of Jenin, when asked about sources of support for Islamic Jihad in his district, told Human Rights Watch that he was "not authorized to say" but that he had "heard" that the group

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Few details are available publicly about this assistance, and accounts vary widely. Islamic Jihad's relationship with Iran is anchored in the organization's ideological affinity with the pan-Islamic revolutionary program of the Ayatollah Khomeini. Israeli analyst Meir Hatina dates the organization's "material dependence on Iran" to Israel's expulsion of Islamic Jihad founders Fathi 'Abd al-'Aziz al-Shikaki and Suliman 'Awda to Lebanon in 1988.²⁷³ In 1995, al-Shikaki said Iranian support was "very limited." "The Islamic Republic of Iran supports the Palestinians politically and morally," he told correspondent Robert Fisk. "Our organization gets some support for the families of martyrs."²⁷⁴ In 1996, Ambassador Philip Wilcox, then the Coordinator for Counter-terrorism in the U.S. State Department, said that Iran's assistance to Islamic Jihad was at that time some two million dollars per year.²⁷⁵

Reports regarding Iranian funding of Hamas vary widely. An IDF report from January 1993 stated that "Hamas receives financial support from unofficial bodies in Saudi Arabia and the Gulf states, and recently also from Iran."²⁷⁶ A recent report by the Congressional Research Service of the U.S. Library of Congress, citing the State Department, estimated that total Iranian funding for Hamas represented approximately 10 percent of the organization's budget but

received support from Iran and Syria. Human Rights Watch interview with Haidar Irshaid, Jenin city, June 10, 2002. In 1999, Police Chief Gazi al-Jabali claimed that the PA had evidence showing Iranian transfers of million of dollars to Hamas for the purpose of influencing the Israeli elections, a charge Iranian officials contested. Ibrahim Barzak, "Police chief: Hamas plans attacks to help Netanyahu win election," Associated Press, February 4, 1999. More recently, but without naming funders or organizations, President Arafat said, "[T]he orders to carry out these actions come from extremist organizations outside Palestine. They are also financed from outside Palestine," BBC Monitoring Middle East cited Palestinian Television, "Arafat says extremist organizations receive orders, financing from abroad," June 30, 2002.

²⁷³ Hatina, *Islam and Salvation in Palestine*, pp. 41, 108. Hatina writes that Iranian financial and logistical aid was "disbursed through the Iranian Embassy in Beirut and through Hizballah," p. 108.

²⁷⁴ Robert Fisk, "The Doctor who Finds Death a Laughing Matter," *The Independent* (London), January 30, 1995.

²⁷⁵ Wilcox's statement, made to Stephen Flatow and his lawyer in July 1996, was cited in the findings of a U.S. court judgment in a suit for monetary damages that Flatow brought against Iranian officials as a result of the death his daughter, Alicia Flatow, in a suicide bombing in April 1995. See *Flatow v. Iran: Order*, filed on March 11, 1998 at http://www.ict.org.il/counter_ter/law/lawdet.cfm?lawid+16 (accessed August 16, 2002).

²⁷⁶ IDF Spokesman, "HAMAS - The Islamic Resistance Movement," January 1993, p. 10 at <http://www.fas.org/irp/world/para/docs/930100> (accessed August 16, 2002). The document also estimates that the funds reaching Hamas "operatives" in the West Bank and Gaza Strip annually amount to around \$1 million.

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did not provide an estimate of the dollar size of Hamas's budget or the amount of Iran's contribution.²⁷⁷ As noted above, Israeli intelligence experts have estimated the annual operational budget of Hamas as being at least \$20 million.

Iran has also reportedly provided training and other forms of support to Hamas. In a recently published interview, Hassan Salameh, a Hamas member from Gaza serving forty-six consecutive life sentences in Israel for his role in the 1996 suicide bombings, said that after he fled to Sudan via Jordan in 1993, "the organization arranged a training camp for us and flew us to Syria and then to Iran."²⁷⁸ In June 2002, the regional press reported high-level meetings of Iranian, Hamas and Islamic Jihad officials in Iran, and noted that Iranian authorities had decided to increase the financial aid given to Hamas and Islamic Jihad. According to one report, the Iranians were also considering a "special budget for backing some Palestinian figures whose organizations lost their financial sources after the collapse of the Soviet Union," possibly referring to the PFLP.²⁷⁹ Islamic Jihad leaders were reportedly promised a 70 percent increase in funding and told that it would pass to them directly, rather than via Hizbollah in Lebanon.²⁸⁰

The U.S. government contends that the Iranian government has been encouraging greater coordination of Islamic Jihad and Hamas with Hizbollah.²⁸¹ Israeli intelligence reports state that Hamas receives training and access to explosives from Hizbollah, and funding from Iran via the Hamas office in Damascus, which is headed by Musa Abu Marzuq and Khalid Mish'al.²⁸² Asked in June 2001 about allegations of Hamas collaboration with Hizbollah, Shaikh

²⁷⁷ See Kenneth Katzman, "Terrorism: Near Eastern Groups and State Sponsors, 2002," p. 7, *CRS Report for Congress*, Library of Congress Congressional Research Service, February 13, 2002 at <http://www.fas.org/irp/crs/RL31119.pdf> (accessed September 3, 2002). The report says that Hamas funding comes "from businesses it runs in Palestinian controlled areas, from Iran (about 10% of its budget), from wealthy private benefactors in the Persian Gulf monarchies, and Palestinian expatriates." It does not provide any estimate of the size of Hamas' budget.

²⁷⁸ Post and Sprinzak, "Terror's Aftermath," *Los Angeles Times*, July 7, 2002.

²⁷⁹ Ali Nurizadeh, "Iran Increases budget to Islamic Jihad and special assistance to resistance leaders," *Al-Sharq al-Awsat*, June 8, 2002 (in Arabic).

²⁸⁰ *Ibid.*

²⁸¹ U.S. Department of State, Office of the Coordinator for Counterterrorism, *Patterns of Global Terrorism 2000*, April 30, 2001 at <http://www.state.gov/s/ct/rls/pgtrpt/2000/2441.htm> (accessed September 3, 2002).

²⁸² For an account of a Tehran meeting of Hamas and Hizbollah leaders, see Matt Rees, "The Terror Twins," *Time*, April 30, 2001.

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Yassin responded, "It is our right to cooperation with any side that serves our cause, whether Hizbollah or others."²⁸³

Syria

Syria provides safe haven as well as logistical support, and serves as a conduit for funds, to several groups that perpetrate suicide attacks against civilians. Islamic Jihad, Hamas, and the PFLP all have headquarters or a high-level presence in Damascus. Islamic Jihad and Hamas also have "basing privileges" for training and other activities in the Beka'a Valley, an area of Lebanon under effective Syrian control.²⁸⁴ Both Islamic Jihad and the PFLP are said to have received financial support from Syria in 1998, although there is little public evidence of Syrian financial contributions to armed activities since then.²⁸⁵ In late September 2002, Syria reportedly rejected U.S. efforts to include specific mention of Hamas and Islamic Jihad in a draft U.N. Security Council resolution. Each had claimed responsibility for suicide bombings in Israel the week before, which were to be mentioned in the draft.²⁸⁶

A memorandum from the PA Preventive Security office in Bethlehem to the PSS Central Operations directorate, dated May 1, 2000 and made public by the IDF, forwards second-hand information from a PSS informant asserting that Islamic Jihad funding in the Bethlehem area comes from Damascus through Amman to the Cairo-Amman Bank in Palestine, and that a second stream comes from Saudi Arabia through Cairo to the same bank. This memo reports that

²⁸³ Interview, *al-Mujalla*, translated in Foreign Broadcast Information Service (FBIS), Near East and South Asia, June 17, 2001.

²⁸⁴ U.S. Department of State, *Patterns of Global Terrorism 2000*.

²⁸⁵ See Katzmman, "Terrorism: Middle Eastern Groups and State Sponsors, 1999", p. 17. On funding via Syria, see "Perpetrator of hotel attack in Netanya was disguised as a Woman," *Yediot Ahronot* (in Arabic) May 16, 2002. Translated by Human Rights Watch. The article reflects the purported admissions under Israeli interrogation of Abbas al-Sayid, a Hamas leader from Tulkarem, arrested on or about May 6, 2002. According to the article, "Al-Sayid testified that he was used to contacting Hamas leadership in Syria when he needed money, and he used to receive \$10,000 - \$13,000 each month. These monies were deposited in his personal account and the account of his wife. He said that he was aware the source of the money was Europe and the U.S. as it was clear from the bank statements."

²⁸⁶ Julia Preston, "Israel resists new U.N. measure to end siege," *New York Times*, September 25, 2002. Syria is currently a member of the Security Council.

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funds are transferred monthly but to individuals whose identities change "according to conditions."²⁸⁷

Syria has consistently refused to take steps to limit its assistance to armed Palestinian groups that perpetrate suicide attacks. It claims that such groups are engaged in legitimate resistance against occupation but makes no effort to disassociate itself from attacks on civilians, in clear violation of international humanitarian law.²⁸⁸

Iraq

The government of Iraq has expressly endorsed and encouraged suicide bombing attacks against civilians. Iraq, in its provision of funds to families of "martyrs" and others, has established a differential in which families of suicide bombing operatives are said to receive a considerably larger sum of \$25,000, while other families that have suffered a death receive \$10,000.²⁸⁹ In promoting suicide attacks, Iraqi leaders have made no distinction between attacks against civilians and attacks against military targets.

Iraq provides these monies through the local Ba'ath Party-affiliated Arab Liberation Front (ALF). The ALF is a constituent member of the Palestine Liberation Organization, and a representative sits on the PLO executive committee, but it is not considered to have a significant number of adherents and is not credited with playing any role in the current clashes other than as a conduit for Iraqi government funds and propaganda. The ALF has told reporters that Iraq has provided \$20 million in aid to Palestinians since clashes began in September 2000, but it is not known what portion of that amount has been provided to families of suicide bombers.²⁹⁰ One Gaza-based ALF official, Ibrahim al-Za'anin, told Reuters, "President Saddam made clear that [suicide] attacks must be considered the utmost act of martyrdom."²⁹¹

²⁸⁷ "Analysis of the Captured Documents: The Saudi Committee for the Support of Intifada al Quds," Appendix D, from <http://www.idf.il/> (accessed July 2, 2002). The informant's source reports that she does not know the names of recipients. Reports or allegations of Saudi support for Islamic Jihad are uncommon.

²⁸⁸ See Syria's report to the U.N. Security Council on measures taken to implement UN Security Council Resolution 1373. U.N. Document S/2001/1204, December 14, 2001.

²⁸⁹ Iraq increased its payment of \$10,000 to martyrs' families to \$25,000 in the case of suicide bombers in March 2002.

²⁹⁰ Sky TV broadcast of July 17, 2002, shotlist and storyline provided to Human Rights Watch by Associated Press Television News, August 7, 2002.

²⁹¹ Nidal al-Mughrabi, "Iraqi, Saudi aid money wins Palestinian hearts," Reuters, June 2, 2002.

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There are several accounts of public events where such payments have been made. Reporter Paul McGeough described a meeting of some 200 members of forty-seven families who gathered in the Tulkarem chamber of commerce in March 2002 to collect checks.²⁹² Two were families of suicide bombers. ALF secretary-general Rakad Salem told McGeough in Ramallah that as of late March 2002 more than eight hundred families of Palestinians killed in the unrest had received \$10,000 "martyr" payments, and that the funds had been "transferred by the banks—from the Iraqi banks to the banks in Palestine."²⁹³ The Tulkarem ALF officials told McGeough that the additional \$15,000 payment was to encourage more volunteers for suicide missions.²⁹⁴ A member of the Palestine Legislative Council was reportedly among those presiding at the Tulkarem event.

Another report described an ALF gathering on May 20 in the Gaza Strip at which forty-six families of "martyrs" received \$10,000 apiece and the families of two suicide bombers received \$25,000 apiece.²⁹⁵ In a Sky TV broadcast of a similar event staged by the ALF in Gaza on July 17, 2002, members of families of "martyrs" killed in the violence received certificates and \$10,000 checks, while families of suicide bombers received \$25,000.²⁹⁶ The report did not indicate the numbers of families in either category.

Other Forms of Funding or Support

In addition to funding from governments, Hamas receives funding from individual benefactors and charities, some in the Persian Gulf region and others in the Palestinian and Arab diaspora in the United States, Europe, and elsewhere. In Saudi Arabia, some of the charities that solicit funds for Palestinian charities allegedly associated with Hamas do so under royal

²⁹² Paul McGeough, "A sea of blood...a sip of coffee," *Sydney Morning Herald*, March 26, 2002. Some details of the meeting are from McGeough's letter of April 6, 2002, posted on the website of the Campaign Against Sanctions in Iraq, www.casi.org.uk/discuss/2002/msg00517 (accessed August 7, 2002).

²⁹³ Paul McGeough, "Saddam Stokes War With Suicide Bomber Cash," *Sydney Morning Herald*, March 26, 2002. Israeli forces reportedly arrested Salem in early October 2002. "Israel says arrests pro-Iraq leader in W. Bank," Reuters, October 2, 2002.

²⁹⁴ Paul McGeough, letter of April 6, 2002, was posted on the website of the Campaign Against Sanctions in Iraq, <http://www.casi.org.uk/>.

²⁹⁵ Nidal al-Mughrabi, "Iraqi, Saudi aid money wins Palestinian hearts," Reuters, June 2, 2002.

²⁹⁶ Shotlist, soundbite and storyline provided to Human Rights Watch by Associate Press Television News.

patronage. The U.S.-based Holy Land Foundation for Relief and Development, which the U.S. government forcibly closed in December 2001 on the grounds that it was a Hamas front organization, reportedly listed revenues of \$13 million on its tax returns for the year 2000, and allegedly channeled funds to Hamas through local charity committees in the West Bank and Gaza.²⁹⁷ One Bahamas-based financial institution, al-Taqwa Bank, is alleged to have been the repository of some \$60 million in Hamas-related funding for the year 1997 alone.²⁹⁸

The U.S. and Israeli governments allege, and Hamas denies, that these funds "leak" to the organization's armed wing.²⁹⁹ Examples of Hamas-controlled societies that allegedly received funds from the Holy Land Foundation were the Islamic Charitable Society of Hebron, the Jenin Zakat Committee, and the Ramallah Zakat Committee, each of which had among its officials persons who had allegedly admitted to armed activities with Hamas, including attacks against civilians.³⁰⁰ U.S. authorities have also cited Israel's interrogation of Muhammad Anati, former head the Foundation's Jerusalem Office, in which Anati reportedly confessed that funds intended for charitable use were diverted to Hamas's military activities.³⁰¹

Hamas enjoys a reputation for financial probity, in contrast to the reputed corruption of the PA, and its network of welfare activities, associated with local

²⁹⁷ Matthew A. Levitt, "Charitable and humanitarian Organizations in the Network of International Terrorist Financing," testimony before the Subcommittee on International Trade and Finance, Committee on Banking, Housing and Urban Affairs, August 1, 2002, p. 4. Officials of the Holy Land Foundation have denied providing support for military activities.

²⁹⁸ Testimony of Juan C. Zarate, Deputy Assistant Secretary for Terrorism and Violent Crime, US Department of the Treasury, House Financial Subcommittee, Oversight and Investigations, February 12, 2002, PO-1009 at <http://www.ustreas.gov/press/releases/po1009.htm> (accessed September 3, 2002).

²⁹⁹ The EU has held the position that separation between Hamas military and charitable activities is possible, and has banned fundraising on behalf of the Hamas military wing, the 'Izz al-Din al-Qassam Brigades. See "Decision Adopted by Written Procedure, Fight Against Terrorism – Updated List," Brussels 3 May 2002, 8549/02 (Presse 121) at <http://ue.eu.int/Newsroom> (accessed September 3, 2002).

³⁰⁰ "Summary of Information Provided by the FBI to the Department of Treasury in Support of the Designation of the Holy Land Foundation for Relief and Development," no date, provided to Human Rights Watch by the U.S. Department of Justice, August 2002.

³⁰¹ United States District Court for the District of Columbia, *Holy Land Foundation for Relief and Development v. John Ashcroft in his official capacity as Attorney General of the United States*, Civil Action no. 02-442 (GK), Memorandum Opinion & Order filed August 8, 2002 by Judge Gladys Kessler, p. 29.

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Muslim charity organizations, is in many areas reportedly more extensive than those of the PA. IDF analysts, commenting on documents captured from Palestinian offices, wrote, "it can be assumed that some of funds that were transferred to the Hamas or entities linked to it also trickled to the Hamas operational-military apparatus," but the IDF made no information public to support this assertion.³⁰² The U.S. government has also argued that Hamas's charitable activities provide a benign cover through which funds can be transferred from abroad into Hamas-controlled institutions.³⁰³

However, Ziad Abu 'Amr, a Gaza-based independent member of the Palestine Legislative Council, told Human Rights Watch that he has examined the books of large Hamas-affiliated charities in Gaza in his capacity as chair of the PLC Political Committee. "One of the Hamas groups that Arafat closed in December [2001] was the Islah [reform] Society, which is big money," he said. "We examined their books carefully. There was nothing amiss. I went to Arafat and said, on what basis are you shutting them down?" Abu 'Amr said that funding for Hamas's military activities may well come from outside states such as Iran but that he is convinced that social and charitable funds are kept separate. "They will not jeopardize their social institutions," he said. "That is their strength, their existence."³⁰⁴

Whether or not funds intended for charitable purposes are diverted to the Hamas military wing, Hamas spokespersons openly acknowledge that the group sees its sizeable social programs as a means of building and maintaining popular support for its overall political goals and programs, including its militant and armed activities. "The political level is the face of Hamas, but without the other divisions Hamas would not be as strong as it is now," spokesperson Ismail Abu Shanab told a reporter. "So it needs the three parts to survive. If nobody supports these needy families, maybe nobody would think of martyrdom and the resistance of occupation."³⁰⁵ Another Hamas leader, Ibrahim al-Yazuri, in an interview in a Hamas-affiliated magazine, characterized Hamas's objective as "the liberation of all Palestine from the tyrannical Israeli occupation" "This is

³⁰² See IDF captured documents, "Saudi Arabia Finances Terror Activities; Strengthening the Hamas' attack apparatus," www.idf.il/saudi_arabia/site/english (accessed October 4, 2002).

³⁰³ U.S. Department of Justice brief, *Holy Land Foundation v. John Ashcroft*, p. 4 section I (A).

³⁰⁴ Human Rights Watch interview, Washington, June 28, 2002.

³⁰⁵ Megan Goldin, "Hamas feeds struggle against Israel with charity," Reuters, January 4, 2001.

the main part of its concern," he said. "Social work is carried out in support of this aim."³⁰⁶

Payments to Family Members of Those Who Carry Out Attacks Against Civilians.

Many of the organizations that donate to Hamas-related or other charitable groups provide compensation support to families of "martyrs"—generally defined as individuals who have been killed, disabled or imprisoned during the current clashes. A significant portion of the funding to the charities and other organizations that provide these programs appears to come through non-governmental channels from Saudi Arabia and other countries, with government approval. In the case of Iraq, funding comes directly from the government (see above). Human Rights Watch is not aware of any effort by the PA to restrict payments from reaching families of suicide bombers who have attacked civilians.

Israeli authorities have publicized a figure of some \$33,000, made up of payments from Iraq, Saudi Arabia, the PA, Qatar, and the United Arab Emirates that it says goes to families of suicide bombers.³⁰⁷ Human Rights Watch could not confirm that payments of such scale with any regularity. Palestinians interviewed by Human Rights Watch agreed that families of "martyrs" generally received financial assistance, but said that, except in the case of Iraqi payments, such funds were provided to families of all persons whose death was related to confrontations with Israeli forces, not only to those who carry out suicide attacks.³⁰⁸

Among the PA documents captured by the IDF in April-May 2002 are records relating to payments from the Saudi Arabian Committee for Support of the Intifada al-Quds, headed by the Saudi Arabian Interior Minister, to the

³⁰⁶ The interview in *Filastin al-Muslimah* (no date cited) is translated and excerpted in "Summary of Information Provided by the FBI to the Department of Treasury in Support of the Designation of the Holy Land Foundation for Relief and Development," no date, provided to Human Rights Watch by the U.S. Department of the Treasury, August 2002.

³⁰⁷ IDF Captured Document "Saudi Arabia Finances Terror Activities", Appendix F at http://www.idf.il/saudi_arabia/site/english/main_index.stm (accessed September 3, 2002).

³⁰⁸ Only one out of the seven families of perpetrators visited by Human Rights Watch in the preparation of this report acknowledged receiving any financial assistance from any outside quarter—in that case, a check for seventy dollars from the United Arab Emirates.

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Tulkarem Charity Committee.³⁰⁹ Under the arrangement, all payments or distributions were made on the basis of information supplied by "Palestinian elements," and were arranged through some fourteen local charity committees, many of which had links to Hamas.³¹⁰ Each charity committee made payments or distributed food to the needy, and also gave both lump-sum and ongoing payments to families of individuals killed, injured, or imprisoned in the intifada, including the families of individuals from Hamas or other armed groups who had carried out suicide attacks against civilians.³¹¹ The PA strenuously objected on the grounds that it was designed to undercut its authority, but not because the payments were rewarding attacks on civilians.

Palestinians for the most part support the provision of assistance to families that have lost loved ones, and do not believe that families of perpetrators of attacks against civilians should be denied such assistance. "I myself am deeply opposed to suicide bombings, yet I too support the families," the prominent Gaza-based psychiatrist and human rights activist Eyad Sarraj said in a recent interview. "As a Palestinian, as an Arab, as a Muslim, and as a human being ... I cannot leave their children in poverty—I have to do what I can to leave them some hope and dignity. This is why we support the families—certainly not to encourage suicide bombing."³¹²

However, as discussed in Section III, individuals who die in the course of committing a crime against humanity should not be equated with individuals who are victims of attacks or who die in ordinary combat. In the case of Iraq's payment of a sizeable "premium" to families of suicide bombers, the intent is expressly to encourage the commission of crimes against humanity. Such

³⁰⁹ IDF captured documents, "Saudi Arabia Finances Terror Activities" at http://www.idf.il/saudi_arabia/site/english/main_index.stm (accessed September 3, 2002).

³¹⁰ "Many of the *zakat* committees may not be controlled by Hamas, but they are under the influence of the Muslim Brothers more broadly," one well-informed Palestinian journalist told Human Rights Watch, referring to the Islamist political group from which Hamas emerged. "Individuals and religious societies in Saudi Arabia will get names and account numbers from an organization like the Hebron Charitable Society." Human Rights Watch interview, name withheld, Nablus, June 7, 2002.

³¹¹ IDF captured documents, "Saudi Arabia Finances Terror Activities" at http://www.idf.il/saudi_arabia/site/english/main_index.stm (accessed September 3, 2002).

³¹² Interview with Eyad Sarraj, "Suicide Bombers: Dignity, Despair, and the Need for Hope," *Journal of Palestine Studies* XXXI, no. 4 (Summer 2002), p. 75.

payments should be stopped.³¹³ In the view of Human Rights Watch, the family of a person responsible for carrying out suicide attacks against civilians should be eligible for financial assistance only as part of a general welfare program based on demonstrated financial need. The provision of funding to the families of individuals who perpetrate suicide attacks against civilians in any other circumstances is wrong. Even payments that do not privilege the families of suicide bombers should not be made to such families in any manner that confers social honor, such as a status of "martyr" or war victim, on the persons responsible for carrying out crimes against humanity.

The PA Ministry of Social Affairs says that it provides a small monthly sum to the family of any person killed or injured in confrontations with Israeli forces or settlers. Yusuf Abu Laban, head of the Bethlehem office of the ministry's Committee to Care for Martyrs' Families, told Human Rights Watch that the amount depends on whether the victim was a primary breadwinner, and the family's economic circumstances. Laban also indicated that the committee plays a role in coordinating the distribution of some funds contributed from elsewhere. Outside contributions, he said, also come to the locally based Islamic Development Bank, "which has a list of eligible martyr families." In other cases, he said, such as funds from Iraq, the sums go directly to the families. Laban insisted that the PA ministry gives no preference or special treatment whatsoever to the families of suicide bombers. "We are first of all a social assistance agency, and we provide only if the family needs it."³¹⁴ However, the PA makes no apparent effort to limit special payments by others to the families of suicide bombers who attack civilians.

Local charitable societies also provide financial assistance. Shaikh Ahmad al-Kurd, the Hamas-affiliated Islah (reform) Society in Gaza, of which he is the president, was quoted in the Saudi press as saying that the society provided \$5,300 to families of persons killed or disabled in the conflict, \$1,300 to injured persons, \$2,650 to families whose homes have been destroyed or badly damaged, and \$2,600 to families of prisoners.³¹⁵ Shaikh Ahmad gave no indication that people who attacked civilians were excluded from this policy.

³¹³ For example, life insurance policies typically preclude payment when the deceased has taken his or her own life, so as not to provide any incentive to committing suicide. The rationale behind the above exclusion is all the stronger if the suicide is committed in the course of perpetrating a crime against humanity.

³¹⁴ Human Rights Watch interview with Yusuf Abu Laban, Bethlehem, June 13, 2002.

³¹⁵ Fahem al-Hamid and 'Abdul Qadir Faris, "Saudi society distributes relief aid to Palestinians in Gaza," *Saudi Gazette*, May 2, 2002. The Shaikh said that in Gaza there were 518 martyrs' families and 4,027 injured persons.

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Some news reports indicate that Hamas has provided additional "compensation" to the families of suicide bombers.³¹⁶

Media reports as well as reports of government intelligence agencies indicate that compensation provided to Palestinian families who have had a member wounded, imprisoned, or killed during the current clashes has to a considerable extent been funded from foreign sources. One example is the Saudi Committee for Support of Intifada al-Quds, mentioned above. Of some 102 names listed in the committee's tenth cycle of payments to the Tulkarem Charity Committee, at least ten were individuals responsible for ordering or condoning attacks against civilians during the current clashes. One example is the payment made to the family of 'Abd al-Rahman Muhammad Said Hmaid, who was allegedly involved in the suicide attack on the Dolphinarium discotheque on June 1, 2001.³¹⁷ Payments were also made to the families of perpetrators of suicide attacks against civilians in 1995-96. According to an IDF analysis (originals were of too low a quality to permit independent examination), information on each victim included the cause of death, with those who had carried out suicide attacks clearly marked. The committee should cease payments to the families of individuals who have committed crimes against humanity.

Under international law, governments and private organizations incur criminal liability for assisting groups or individuals to carry out suicide bombings against civilians. No support should go to any organization that continues to commit such crimes against humanity. If a group is engaged in

³¹⁶ Amanda Ripley, "Why Suicide Bombing...Is Now All The Rage," *Time*, April 15, 2002. Ripley reported that "[a]t wakes for Hamas bombers, it has become routine for an activist to approach the father with an envelope containing \$10,000."

³¹⁷ The scanned Arabic originals released by the IDF were of too poor a quality to allow analysis.

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parallel legitimate activities, such as charitable welfare, no funds should be provided until a verifiable scheme is established to ensure that no funds are diverted for criminal purposes. In no case should individuals or their families be privileged in any payment because of participation in attacks that target civilians. Governments have an obligation to investigate and prosecute any individual or entity within their jurisdiction that violates these standards.

VII. THE ROLE OF THE PALESTINIAN AUTHORITY

One of the most contested questions in the debate about Palestinian suicide attacks on Israeli civilians is what, if any, role has been played by the Palestinian Authority and specifically, President Arafat. Israel charges that the PA has ordered and systematically participated in "terror," a term it applies to all armed activity against Israeli targets, whether military or civilian. It holds the PA responsible every time an attack occurs. The PA denies having any role in attacks against civilians.

The PA, under the terms of the Oslo Accords, assumed law enforcement responsibilities for those areas of the West Bank and Gaza Strip under its control—namely, the major cities and Palestinian population clusters, amounting at the time of the outbreak of clashes in September 2000 to approximately 26 percent of the West Bank and 60 percent of the Gaza Strip.³¹⁸ The PA thus has had an obligation to take all available and effective measures consistent with international human rights and humanitarian law to prevent suicide or other attacks against civilians by the armed groups operating from these areas.

Human Rights Watch found that there were steps that the PA could have taken to prevent or deter such attacks, but that it remained unwilling to risk the political cost of acting decisively. The PA routinely failed to investigate, arrest and prosecute persons believed to be responsible for these attacks, and did not take credible steps to reprimand, discipline, or bring to justice those members of its own security services who, in violation of declared PA policy, participated in such attacks. In addition, although President Arafat repeatedly condemned suicide attacks against civilians, he consistently failed to insist that terms of honor and respect such as "martyr"—which Palestinians use to designate persons who have died or suffered grave loss in clashes with Israeli forces or settlers—should not apply to people who die in the course of carrying out indiscriminate attacks against civilians.

Moreover, President Arafat and other senior officials authorized payments, in several cases, to individuals who were known to have participated in attacks on Israeli civilians in the Occupied Territories and, more commonly, without apparent regard for the known or alleged involvement of the recipients in attacks on civilians. As discussed above, President Arafat and the PA also took no steps to ensure that welfare payments from the PA and others did not privilege the families of suicide bombers who attacked civilians. Indeed, one document made

³¹⁸ Of the 26 percent of the West Bank under PA security control, the PA shared joint security responsibility with Israel for 23 percent, and 3 percent was under its sole control. Beinun, J. "The Demise of the Oslo Process", March 26, 1999. MERIP PIN no. 1 at <http://www.merip.org/pins/pin1.html> (accessed October 10, 2002).

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public by the Israeli government, hereafter referred to as the "memo to Tirawi," suggests that at least one senior PA intelligence official may have had a positive view of people who carry out attacks on civilians.³¹⁹

The PA's failure to act in an effective and consistent manner against Palestinian attacks on civilians contributed to an atmosphere of impunity, allowing the armed groups to conclude that there would be no serious consequence for those who planned or carried out attacks that amounted to war crimes, and in the cases of suicide bombings, crimes against humanity. This failure reflects a high degree of political responsibility on the part of President Arafat and the PA leadership for the many civilian deaths that have resulted.

However, on the basis of evidence available through the end of September, 2002, Human Rights Watch did not find evidence demonstrating that President Arafat or other senior PA officials ordered, planned, or carried out suicide bombings or other attacks against civilians. While senior PA officials fostered an atmosphere of impunity, we also did not find evidence that they authorized specific attacks or attacks against civilians generally, or that PA officials or institutions organized or assisted in preparing or carrying out attacks against civilians systematically or as a matter of policy. The "memo to Tirawi" suggests that at least some senior PA officials viewed these attacks favorably, but, as discussed in Section V, the PA and the Fatah political leadership did not have the effective control over the actions of the al-Aqsa Martyrs' Brigades necessary to establish criminal liability under the doctrine of command responsibility.

Security Role of the PA Since September 2000

The Oslo process required that one of the central functions of the Palestinian Authority was to maintain law and order, prevent armed attacks against Israelis or Israeli targets, and bring to justice those accused of perpetrating such attacks. Some Palestinian armed groups rejected the Oslo agreement because, among other things, it was preconditioned on renouncing armed resistance against Israeli occupation.

While the post-Oslo negotiations continued, there was a significant level of cooperation between Israeli and Palestinian security forces, particularly in the aftermath of a suicide bombing campaign perpetrated by Hamas and Islamic Jihad in 1996-97. During this period, by most accounts, the PA took credible

³¹⁹ See the report to Tawfiq Tirawi, head of the General Intelligence Services (GIS) in the West Bank, from Hamdi Darduk, the GIS head in Tulkarem, entitled "The General Situation Among Armed Fatah Personnel in the District," February 6, 2002.

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and tangible steps to prevent attacks against Israeli targets.³²⁰ Ely Karmon, an Israeli counter-terrorism analyst, commenting on the decline in attacks by Hamas and Islamic Jihad in this period, wrote that it “was due to the combined preventive counter-terrorist policy of the PA and Israel.”³²¹ Yoram Schweitzer, another Israeli analyst, noted as an example of this cooperation a March 2000 Hamas attempt to carry out attacks in Israeli cities that was thwarted by the capture of two of the leaders in Nablus by Palestinian forces.³²² A senior official in the West Bank Preventive Security Service told Human Rights Watch, “1999-2000 were the best years ever from a security standpoint. When it worked we had help from Israelis—people like [former Shin Bet chief] Ami Ayalon, [former IDF chief-of-staff Lieutenant General Amnon] Shahak, [former Justice Minister Yossi] Beilin, the old [Shimon] Peres.”³²³ Ramadan Shalah, secretary-general of Islamic Jihad, appeared to confirm this assessment regarding his organization. “The Oslo agreement,” he wrote in March 2002, “demolished the foundations of the Palestinian resistance.... The Islamic movement entered a period of crisis that had more or less led to the breakdown of its military infrastructure, where it had lost most of its human and financial resources.”³²⁴

With the deterioration of Israeli-Palestinian political relations and the onset of the current unrest, cooperation between Israeli and PA security forces diminished rapidly. From the outset, Israeli authorities accused the Palestinian Authority, and President Arafat personally, of being directly responsible for attacks against Israelis. For example, after a roadside bomb killed two civilians

³²⁰ For an account of how security cooperation fared in response to the suicide bombings in early 1996, see James Bruce, “The PLO, Israel and Security,” *Jane's Intelligence Review*, April 1, 1996. For a critique of PA human rights abuses in its arrest and treatment of detainees in this period, see Human Rights Watch, “Human rights under the Palestinian Authority,” *A Human Rights Watch Report*, vol. 9, no. 10 (E), September 1997.

³²¹ Karmon, “Hamas’ Terrorism Strategy...,” *Middle East Review of International Affairs*, p. 66.

³²² Yoram Schweitzer, “Suicide Terrorism: Development and Characteristics,” lecture presented in the International Conference on Countering Suicide Terrorism at ICT, Herzeliya, Israel, February 21, 2000 at <http://www.ict.org.il/> (accessed October 10, 2002).

³²³ Interview, name withheld, Jerusalem, June 9, 2002.

³²⁴ Shalah goes on to write that the Hizbollah victory over the IDF in southern Lebanon and the collapse of the July 2000 Camp David talks “opened a new window of opportunity for the Palestinian people to return to the option of intifada and resistance.” “The Islamic Jihad movement in Palestine: Preliminary Remarks,” (in Arabic) *Al-Intiqad* (weekly) no. 924, March 2002.

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and seriously wounded nine others, including five children, in an armored school bus passing near the Kfar Darom settlement in the Gaza Strip on November 20, 2000, then-Prime Minister Ehud Barak blamed Arafat and Fatah and in retaliation ordered IDF helicopters and naval vessels to shell PA and Fatah headquarters and Preventive Security Services (PSS) offices in Gaza City.³²⁵ Many Palestinians, for their part, blamed the PA for not protecting them from attacks by the IDF and Israeli settlers in the Occupied Territories.

Mutual recriminations continued, and violence intensified. On the Palestinian side, the stoning of IDF checkpoints gave way to roadside shootings of civilians and military targets and, finally, to suicide bombing and shooting attacks against civilians as well as military targets. On the Israeli side, continuing instances of indiscriminate and/or excessive use of force were aggravated by increasingly severe restrictions on freedom of movement, a policy of assassinations of alleged militants, frequent raids into PA-controlled areas, and, finally, full-scale military re-occupation of those areas.

As the spiral of violence wound tighter, the Palestinian Authority continued to condemn publicly armed attacks that deliberately targeted civilians but, except for a brief period from mid-December 2001 to mid-January 2002, took no clear or credible actions to prevent such attacks or to punish those responsible. The PA's inaction was at least in part due to its unwillingness to confront the organizations carrying out such attacks, which enjoyed a high degree of popular Palestinian support, particularly in light of mounting Palestinian civilian casualties.

The main PA security agency responsible for enforcing PA commitments to combat anti-Israeli violence is the Preventive Security Service. With separate commands in the Gaza Strip and the West Bank, the PSS at its height numbered between four and five thousand officers, mostly former Fatah fighters. Some PSS officers were trained by the U.S. Central Intelligence Agency.³²⁶ Few observers, however, would characterize it as a professional law enforcement agency.³²⁷ Along with the General Intelligence Service (GIS) and other PA

³²⁵ Arafat condemned the roadside bomb attack, for which no group claimed responsibility.

³²⁶ For an overview of this relationship, see "The Palestinian Authority and the CIA," *IJSS [International Institute for Strategic Studies] Strategic Comments*, vol. 4, no. 10, December 1998.

³²⁷ One independent Palestinian analyst, asked by Human Rights Watch about links between Fatah and the al-Aqsa Martyrs' Brigades, said that the Brigades were "freelance Fatah" while the PSS was "the real armed wing of Fatah," with a mission of enforcing PA (i.e., Fatah) policy vis-à-vis the Islamist opposition Human Rights Watch interview, Washington, D.C., September 4, 2002.

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security forces, the PSS served as a kind of job bank for the Palestinian leader, in addition to performing policing, intelligence, and coercive functions.

The PA's failure to take effective steps to prevent suicide attacks against civilians and bring those responsible to justice dates from the earliest months of the current unrest. However, as clashes continued and intensified, Israeli attacks targeting Palestinian security services infrastructure, places of detention, and security personnel, along with curfews and stringent restrictions on movement, gradually undermined the PA's enforcement capabilities.

These attacks were generally carried out as retaliation for Palestinian attacks on Israeli targets. For example, on May 18, 2001, following a Hamas suicide bombing in Netanya that killed five and injured more than 100, Israel attacked PA security installations in Gaza City, Nablus, Ramallah, and Tulkarem. In Nablus, F-16 warplanes bombed the main prison complex, killing eleven policemen.³²⁸ In an interview in late December 2001, Preventive Security Services chief Jibril Rajoub said that more than 70 percent of its offices and 90 percent of its barracks had been destroyed.³²⁹ Israeli military analyst Gal Luft wrote, in the aftermath of Operation Defensive Shield, "The IDF has targeted PSS installations in its retaliatory attacks against Palestinian terrorism, destroying almost every PSS headquarters, office, training base, and vehicle."³³⁰ Many Israelis as well as Palestinians saw in these attacks an Israeli government policy aimed at weakening the PA to the point of collapse. On July 17, 2002, after a suicide bombing in Tel Aviv, Minister for Public Security Uzi Landau said, "We will enter their areas and break up the entire Palestinian security apparatus to bring about the collapse of the Palestinian Authority."³³¹

On September 4, 2002, meeting with Danish Foreign Minister Per Stig Moeller, President Arafat said that Palestinians are "able to fully control the

³²⁸ On May 20, 2001, an IDF tank shelled the home of Colonel Jibril Rajoub, West Bank head of the PSS. Rajoub was at home at the time but escaped harm. The IDF later said that it was responding to shooting from a position nearby and had been unaware of the fact that it was Rajoub's home, but the officer in command of the tank unit told a radio interviewer that his men knew who they were targeting. See the *Economist*, May 26-June 1, 2001, pp. 43-44.

³²⁹ "Palestinian Security Chief on Cease-fire Decision, Compliance of Hamas," *Al-Musawwar* (Cairo), December 28, 2001, excerpts translated by Foreign Broadcast Information Service (FBIS), Near East and South Asia, document number: FBIS-NES-2002-0102.

³³⁰ Gal Luft, "Reforming the Palestinian Security Services," The Washington Institute for Near East Policy, *Peacewatch*, no. 382, May 15, 2002.

³³¹ "Pair of Bombers Strike in Tel Aviv, Killing Three in Street," *New York Times*, July 18, 2002.

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security situation" in the areas of PA jurisdiction.³³² Speaking a day earlier, however, and reflecting a less optimistic assessment shared by many outside observers as well, PA Interior Minister 'Abd al-Razaq Yahya told Reuters that the PA security services were "facing great difficulty" in regaining control of the security situation.³³³

Failure to Bring to Justice those who Ordered, Planned, or Participated in Suicide Attacks on Civilians

Although the PA's legal governing authority derives from the Oslo Accords signed with Israel, the duty to prevent systematic indiscriminate attacks against civilians is not contingent on Israeli compliance with those accords or rendered null by what the PA regards as Israeli violations of the accords. That duty should not be a bargaining chip whose implementation is subject to political negotiations. As the political authority in place, the PA has a responsibility to bring to justice individuals who order, plan, or carry out attacks against civilians. The PA has failed to meet this obligation.

When the PA made arrests, they were often indiscriminate, picking up supporters of one or another militant group without regard to any alleged responsibility for the serious crimes being committed in the name of that group. Instead of being investigated, detained suspects were typically held without charge and later released. The PA has explained these releases as a response to the danger posed by Israeli bombings of places of detention, but it has not tried to explain why suspects were not investigated, charged, or brought to trial.

PA officials also claim that Israeli actions, such as the destruction of PA police and security installations, have undermined the PA's capacity to act. However, the record indicates that the PA for the most part did not attempt to exercise its capacity to prevent or punish such crimes even when it had the ability to do so. At least until the IDF's reoccupation of Palestinian cities and towns in April 2002, the PA retained some degree of law enforcement capacity. In June 2001, and again in mid-December 2001, the PA showed that it still commanded enough influence with the perpetrator groups, using political negotiations as well as coercive law enforcement measures, to bring about cessations of suicide bombings, even though its law enforcement capacities had been diminished by Israeli attacks.

The relative success of the PA's intervention with armed groups and their sponsors in the December 2001-January 2002 period highlights the PA's lack of

³³² "Arafat says he accepts EU peace plan 'in principle'," *Ha'aretz* (September 4, 2002).

³³³ Mark Heinrich, "Militants endanger security deal—Israeli general," Reuters, September 3, 2002.

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similar concerted effort at other times, in particular during the violent months that preceded the December 2001 initiative. This failure to take consistent and credible steps to confront these attacks contributed to a climate of impunity and set the scene for the escalation of such attacks between late January and early April of 2002.

In the first weeks of the clashes, the PA released numerous detainees, most of them members of Hamas and Islamic Jihad, some of whom had been in PA detention without charge or trial for several years.³³⁴ According to press reports, the first releases took place on October 4, 2000, when twelve Hamas detainees were released from Gaza Central Prison. Subsequent releases occurred over the following week. A PA security official in Gaza claimed that by mid-October the PA had "begun to re-arrest them."³³⁵ In Nablus, fourteen of the thirty-five who had been released reportedly responded to a summons to turn themselves back in.³³⁶ Hamas political leader 'Abd al-'Aziz al-Rantisi was rearrested on October 18 and released again on December 26, 2000, at the end of Ramadan.³³⁷

³³⁴ Prior to the current uprising, "political" detainees, mostly supporters or suspected supporters of Hamas and Islamic Jihad, were periodically detained in large numbers, usually in the aftermath of attacks against Israeli civilians or military targets and usually without charge or trial. In mid-1997, for instance, between 115 and 300 "political" detainees had been in Palestinian detention for at least one, and as long as three, years. See Human Rights Watch, "Human Rights under the Palestinian Authority," September 1997, p. 11. An estimated seven hundred "political" detainees had been arrested in 1999 and 2000. See Human Rights Watch, "Justice Undermined," November 2001, p. 25. Hamas political leader Mahmud Zahar, speaking to the Palestinian daily *al-Ayyam*, named five released Hamas detainees who he said had spent around five years in prison. See Jerusalem Media and Communications Centre (JMCC) Daily Press Summary, October 9, 2000. See also "Terrorists Recently Released by the Palestinian Authority," October 12, 2000 at <http://www.mfa.gov.il> (accessed October 10, 2002). Several of the individuals listed were released earlier in 2000, according to the IDF at http://www.idf.i/english/idf_in_pictures/2000/october/piguim.stm (accessed September, 2002).

³³⁵ Margot Dudkevitch and Lamia Lahoud, "Mofaz denies PA re-arresting released terrorists," *Jerusalem Post*, October 16, 2000.

³³⁶ Ron Kampeas, "Israelis and Palestinians agree to cease-fire summit," Associated Press, October 14, 2000.

³³⁷ "Released Hamas leader says intifadah only way to unite Palestinians," *al-Jazeera* interview with 'Abd al-'Aziz al-Rantisi, BBC Summary of World Broadcasts, The Middle East, December 29, 2000. A report on the Hamas-affiliated Palestinian Information Centre website on December 28, 2000 said that with al-Rantisi's release, the only Hamas leader still in PA custody in Gaza was Muhammad Deyf, but that Hamas prisoners had not been released from PA prisons in the West Bank. See "Hamas reports fate of jailed leading member Al-Dayf 'still unknown,'" BBC Summary of World Broadcasts, The Middle East, December 30, 2000.

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The Islamic Jihad organization has cited these releases as a factor contributing to the group's ability to carry out attacks against Israeli targets. The group's military wing, according to an account posted on its website, had suffered "painful blows that led to its breakdown" but with "the support from the masses as well as the release of some strugglers [*mujahidin*] from the PA prisons, the efforts of the movement to rebuild its military strength hastened the establishment of a new military agency, *saraya al-quds*."³³⁸ In early June 2001, Israel reportedly presented to the PA lists of people it said were responsible for attacks against civilians and military targets, including, according to some reports, as many as one hundred who had been released from PA detention.³³⁹

As the conflict widened and the toll of Palestinian civilian casualties mounted, reports of arrests by Palestinian security forces declined.³⁴⁰ In late November 2000, the PA cabinet secretary and Arafat advisor Ahmad 'Abd al-Rahman reportedly said that the PA and its Islamist opposition were "fighting in the same trench."³⁴¹ In mid-April 2001, the PA confirmed that it had released Muhammad Deyf, imprisoned since 1996 for his role in the Hamas suicide bomb attacks in February of that year, although officials insisted he remained under their control in "a safe place where he cannot be reached by the Israeli authorities."³⁴² No such pretenses were made when Deyf narrowly escaped death in an Israeli rocket attack targeting him as he traveled by car in Gaza city on September 26, 2002.³⁴³

Some of the detainees released at the beginning of the uprising, as well as other armed militants and political critics of the PA, were re-detained and re-released periodically during 2001. Some were formally arrested and, beginning in late October 2001, the PA started using administrative detention orders to

³³⁸ "From Qassam to Saraya al-Quds," (in Arabic) at <http://www.qudsway.com>. Translated by Human Rights Watch.

³³⁹ "After the Tel Aviv Suicide-bomb," *Economist* (June 9-15, 2001), p. 46.

³⁴⁰ On November 27, 2000, the PA announced that it had arrested two Hamas members in connection with a car bombing in Hadera that killed two civilians and wounded sixty. Human Rights Watch does not have information concerning any investigation or prosecution related to this attack.

³⁴¹ Holger Jensen, "Chances for Mideast peace dwindle in cycle of violence," *Denver Rocky Mountain News*, November 23, 2000.

³⁴² "Palestinians confirm Hamas military leader no longer in custody," Agence France-Presse, April 16, 2001.

³⁴³ James Bennet, "Israel says target in Gaza raid was wounded, but escaped," *New York Times*, September 28, 2002. The attack killed two other Hamas members and wounded more than thirty persons, including fifteen children.

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detain suspects. Individuals known to be leaders of groups responsible for attacks against civilians nevertheless continued to operate openly in the West Bank and Gaza Strip—in the case of Bethlehem-area al-Aqsa Brigades leader Atef Abayat, even when technically under “house arrest.” In Gaza, the PA had issued a warrant in October 2001 for the arrest of ‘Abdallah al-Shami, but the reputed Islamic Jihad military leader was not taken into custody until June 8, 2002. (See below.)

Those measures taken by the PA to limit armed activities failed to include meaningful efforts to bring perpetrators of suicide attacks on civilians to justice. For example, following the Dolphinarium attack on June 1, 2001, President Arafat issued a statement saying that he would “do all that is needed to achieve an immediate, unconditional, real and effective cease-fire,” and that the PA would implement it “by force if necessary.”³⁴⁴ Palestinian security officials at the time said they had boosted their patrols throughout the areas under their jurisdiction. However, they also made clear that they had no plans to arrest any of the large number of militants “wanted” by Israel, some of whom were allegedly responsible for attacks on civilians.³⁴⁵ Nabil Sha’ath, the PA international cooperation minister, said on June 7, 2001, that two people suspected of involvement in the Dolphinarium attack had been arrested, but he made clear that arrests would be confined to those who had violated the cease-fire that had just been declared. “I don’t think we should just be arresting people...unless we have real information, hard information, that some people are preparing something,” Sha’ath said.³⁴⁶ West Bank Preventive Security chief Jibril Rajoub went further by stating, “We will not arrest any Palestinian who participated in the resistance prior to the cease-fire.”³⁴⁷ Even when arrests were

³⁴⁴ “After the Tel Aviv suicide-bomb,” *Economist* (June 9-15, 2001), p. 46.

³⁴⁵ According to the *Economist*, *Ibid.*, Israel demanded that the PA “re-arrest the 100 or so Hamas and Islamic Jihad prisoners freed from PA jails” early in the uprising as well as “another 200 Palestinians, including members of Fatah and officers in the PA’s own security forces, who Israel says have been responsible for killing Israelis, whether in Israel or the Occupied Territories.” Other accounts said the lists included thirty-four Palestinians whom the PA had released from detention at the outset of the uprising and 300 others wanted in connection with “recent violence against military and civilian targets.” See “Chronology: 16 May-15 August 2001,” *Journal of Palestine Studies* XXXI, no. 1, Autumn 2001, p.160.

³⁴⁶ “Palestinians will not make wholesale arrests but will hunt suspects: Shaath,” Agence France-Presse, June 9, 2001.

³⁴⁷ “Israel-Palestine divided over agenda for security talks,” Agence France-Presse, June 18, 2001.

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made, there is little evidence to suggest that individuals responsible for suicide attacks against civilians were ever investigated, charged, or tried.

In late September 2001, the Israeli government reportedly again passed to the PA lists of people it wanted arrested. The PA initiated another round of arrests, although it was unclear if those arrested were named on those lists. The arrests sparked violent opposition. In the Rafah area of southern Gaza, crowds set fire to PA intelligence agency offices. In Bethlehem, al-Aqsa Brigades leader Atef Abayat was detained on October 2, but only after extensive negotiations with Abayat's armed followers; he was held for only a very brief period despite President Arafat's reported order that he be kept in custody.³⁴⁸

During a Human Rights Watch field mission to the West Bank in January 2002, local human rights activists said that many of those detained in late 2001 had been arrested for low-level political activities; few held significant roles in armed groups, and fewer still faced formal charges. When the PA did make arrests, it was generally immediately after suicide attacks against civilians, in apparent response to Israeli and international pressure to do so. For the most part, these arrests were of known adherents or supporters of the group claiming responsibility for the attack rather than individuals actually suspected of ordering, planning, or assisting it. One recent exception to this pattern occurred after Islamic Jihad claimed responsibility for a June 5, 2002, bombing of a civilian bus near Megiddo that killed thirteen IDF soldiers and four civilians. On that occasion, PA security forces detained two Islamic Jihad members in Gaza, including 'Abdallah al-Shami, the reputed leader of the group's military wing, for whom an arrest warrant had been issued the previous October.

Attempts to arrest perpetrators often encountered considerable resistance from supporters of the militants. Residents of Jenin told Human Rights Watch that when Palestinian Preventive Security in Nablus in November 2001 arrested Mahmud Tawalba, an Islamic Jihad leader from the Jenin refugee camp, demonstrators marched on the PSS headquarters in Jenin, overturning vehicles and threatening to overrun the facility. "The whole camp, even Fatah, came out against this," Abu Antun, a Jenin camp leader, told Human Rights Watch. "Maybe the charges against him were true, but we would do the same for anyone, regardless of affiliation."³⁴⁹ Tawalba's mother told Human Rights

³⁴⁸ On the 'Abayat arrest, see James Hider, "Mideast truce firms up as Bush backs Palestinian state," *Agence France-Presse*, October 2, 2001. A Jerusalem-based Western diplomat familiar with the incident told Human Rights Watch that Abayat had been freed by Bethlehem authorities despite Arafat's orders to the contrary.

³⁴⁹ Human Rights Watch interview, Jenin refugee camp, June 11, 2002. Tawalba was killed in the early days of the IDF invasion of Jenin refugee camp in April 2002. Abu

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Watch that on this occasion he had been “ambushed” by the PSS in Nablus and spent three months in jail there. “[CIA head George] Tenet checked his arrest himself,” she said proudly. “But when Israel attacked the prison, the jailers left, the prisoners escaped, and Mahmud returned to Jenin.”³⁵⁰

Haidar Irshaid, the acting governor of Jenin, told Human Rights Watch in June 2002 that the first and last time the PA had arrested armed militants in Jenin was in August 2001, when he led a force of about one hundred security personnel to arrest a group of eight Islamic Jihad activists in Jenin refugee camp. “I knew who we wanted and got them. I visited Arafat in Ramallah and told him about the scene here. ‘How much do you need?’ he asked. ‘How much time?’ We did it the next day. Until that time, no such operation was made in all the West Bank.”³⁵¹ Irshaid did not explain why no other policing efforts had been made prior to this initiative, for which he took credit, but instead blamed Israeli restrictions and the destruction of places of detention for the absence of Palestinian law enforcement initiatives.

The strongest evidence that the PA still retained some law enforcement capacity with regard to attacks against civilians came in December 2001 and early January 2002, when, in contrast to previous periods, the PA undertook sustained efforts to halt suicide bombings and Palestinian attacks in general. In response to a string of Palestinian attacks against settlers, civilians in Israel, and military targets, President Arafat on November 28, 2001, ordered the PSS to arrest members of Hamas, Islamic Jihad, and the al-Aqsa Martyrs’ Brigades. On November 29, 2001, following a suicide bombing of a civilian bus in northern Israel, the PA stated, “The Authority reaffirms that it is working in its full capacity to put an end to all sorts of attacks against Israeli civilians.”³⁵² After Hamas suicide bombing attacks on December 1 in Jerusalem, killing ten, and December 2 in Haifa, killing fifteen, Arafat declared a state of emergency, pronounced illegal “any movement, organization, or grouping” that violated the cease-fire he had declared a few days earlier, ordered the confiscation of illegal weapons, and stated that Palestinian security forces had arrested some ninety

Antun, formerly affiliated with the PFLP, is considered in Jenin to be an independent figure today.

³⁵⁰ Human Rights Watch interview, Jenin refugee camp, June 11, 2002.

³⁵¹ Human Rights Watch interview, Jenin city, June 10, 2002. Human Rights Watch has been unable to confirm that such an arrest raid took place in Jenin in or around August 2001, but Irshaid’s account corresponds to reports of such a raid in early January 2002 (see below).

³⁵² Carol Rosenberg, “Arab Suicide Bomber Kills Three Israelis, Wounds Other Bus Riders,” Knight-Ridder Tribune Business News, November 30, 2001.

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people over the previous several days.³⁵³ The efforts of PSS officers to arrest Hamas leader Shaikh Yassin led to clashes with his supporters in which one Hamas supporter was killed. After continuing demonstrations, the PSS pulled back its forces from Yassin's residence.³⁵⁴

In a December 3 meeting after Prime Minister Sharon returned from a visit to the United States, the Israeli cabinet issued a statement declaring the PA "an entity that supports terrorism" and authorizing the prime minister to undertake a "much broader scope" of military activity against the Palestinians.³⁵⁵ Israeli attacks that day included the destruction of PSS barracks near Gaza City, PA and PSS headquarters, and a jail in Jenin. The next day, the IDF shelled the PA headquarters in Ramallah, though not the building where President Arafat was confined.

On December 16, in a televised speech in Arabic marking the end of Ramadan, President Arafat called for "the complete cessation of all military activities, especially suicide attacks, which we have always condemned. We shall not stand for more than one Authority on this land, in this community and this homeland. . . ."³⁵⁶ Arafat added that the PA would "punish all planners and executors and hunt down the violators" and announced that he had declared illegal Palestinian militias "that carry out terrorist activities."³⁵⁷

The PA continued to close Hamas and Islamic Jihad offices and said on December 18 that it had arrested more than 180 Palestinians since the beginning of the month, but provided no information on investigations or charges related to

³⁵³ "Palestinian authority outlaws groups adopting anti-Israeli operations," WAFA [the official news agency of the PA], translation from BBC Monitoring Middle East-Political, December 2, 2001. The Israeli government dismissed the arrests as "a stunt." Peter Hermann, "Israelis avenge attacks, hit Arafat's compound," *Baltimore Sun*, December 4, 2001.

³⁵⁴ Richard Beeston, "Frail fanatic who strikes fear in Israel," *The Times* (London), December 7, 2001.

³⁵⁵ Foreign Minister Peres and other Labor party cabinet members reportedly left the meeting to protest this statement, but did not withdraw from the governing coalition. In July 2001, the IDF reportedly submitted to the cabinet a revised "strike plan" entitled, "The Destruction of the Palestinian Authority and Disarmament of all armed forces," to be implemented after the next big suicide attack inside Israel. See "Peace Monitor," *Journal of Palestine Studies* XXXI, no. 1, Autumn 2001, pp. 108-109. See also "Israeli War Plan Revealed," CBSNews, July 12, 2001.

³⁵⁶ Yassir Arafat speech, at http://www.palestineaffairsCouncil.org/president_arafat_addresses_the_p.htm (accessed July 2002).

³⁵⁷ Ibid.

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responsibility for attacks against civilians. The next day, December 19, the PA announced that it had arrested fifteen PSS officers suspected of participating in attacks on Israelis.³⁵⁸

As on earlier occasions, these PA moves sparked popular opposition, some of it violent, but this time the PA continued the crackdown. PA efforts to arrest alleged militants, close down charities and similar institutions affiliated with Hamas and Islamic Jihad, and arrest Hamas leader 'Abd al-'Aziz al-Rantisi led to three days of clashes in Gaza. On December 21, Palestinian security forces, in circumstances that appeared to violate international standards on the use of firearms, killed six Palestinians and reportedly wounded about ninety.³⁵⁹ That same day, Hamas announced that it would abide by the cease-fire, and Islamic Jihad reportedly also indicated it would comply.³⁶⁰ On December 22, Palestinian security forces in Gaza arrested reputed Islamic Jihad military leader Shadi Muhana and a top aide, Mahmud Judeh.³⁶¹ Further PA arrests of Islamic Jihad leaders and militants took place in Jenin, Bethlehem, and elsewhere on January 5, 6, and 10, 2002.³⁶²

Over a four-week period, from December 16, 2001 to January 15, 2002, no suicide or other attacks inside Israel took place. The IDF said that there were

³⁵⁸ On December 30, PA sources said the authorities had tried and sentenced five PSS officers to eighteen-month jail terms and fired two other officers, one of whom was sentenced to a year in prison, for "anti-Israeli activities." One of those dismissed may have been Nasr 'Awais, a prominent al-Aqsa Brigades member in Nablus. See Mohammed Daraghme, "Link to the Fatah movement is spiritual, not organizational.... The al-Aqsa Brigades: Palestinian blood to answer Israeli explosives" (in Arabic), Arab Media Internet Network, March 23, 2002 at <http://www.amin.org/mohammed.daraghme/2002/mar/mar23.html> (accessed on September 8 2002).

³⁵⁹ Steve Weizman, "Palestinians say militants' truce call puts onus for peace on Israel," Associated Press, December 22, 2001.

³⁶⁰ James Bennet, "New clashes in Gaza; Hamas to limit suicide attacks," *New York Times*, December 22, 2001. The Hamas statement referred to attacks inside Israel, including mortar attacks, but implied that it did not consider itself bound to refrain from attacks against military targets or settlers in the Occupied Territories. The PA reportedly backed down after attempting to arrest Hamas political leader 'Abd al-'Aziz al-Rantisi, in the end cutting his phone line and getting his agreement not to conduct media interviews. Lee Hockstader, "Funeral violence averted in Gaza; Many see the but six Palestinians are buried without incident," *Washington Post*, December 23, 2001.

³⁶¹ Ross Dunn, "Arafat to defy ban and walk to Bethlehem," *Sydney Morning Herald*, December 24, 2001.

³⁶² On the Jenin arrests, see Lamia Lahoud and Margot Dudkevitch, "PA arrests 6 Islamic Jihad militants," *Jerusalem Post*, January 7, 2001; on Bethlehem see Karin Laub, "Mideast truce top goal of US envoy," Associated Press, January 5, 2002.

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several attempts to attack settlements and military targets, but reported on December 30 that there had been a 50 percent drop in Palestinian attacks since December 16.³⁶³ Prime Minister Sharon claimed that this was due to Israeli military activities rather than PA efforts.³⁶⁴

The cease-fire broke on the Palestinian side on January 9, when two Hamas fighters killed four Israeli soldiers in an ambush in Israel, near the border with Gaza—retaliation, Hamas claimed, for the IDF's treatment of the bodies of three Gaza teenagers killed by a tank shell on December 30, 2001.³⁶⁵ The next day, the IDF razed fifty-nine homes in the Rafah refugee camp, and the Palestinian factions—except Fatah and the al-Aqsa Martyrs' Brigades—announced they would no longer consider themselves bound by the cease-fire commitment.

On January 14, following the assassination of the Tulkarem leader of the al-Aqsa Martyrs' Brigades, Ra'id Al-Karmi, that group announced that it was also canceling its adherence to the cease-fire. Al-Aqsa Martyrs' Brigades gunmen abducted and shot to death an Israeli settler near Beit Sahur on January 15. On January 17, an al-Aqsa Brigades gunman attacked a bat mitzvah celebration in the Israeli city of Hadera, killing six and wounding several dozen before being shot to death by Israeli police. On January 22, an al-Aqsa Brigades gunman opened fire in west Jerusalem; two of the sixteen Israelis who were wounded later died. The violence on both sides continued to escalate with the first suicide bombing of the new year, a January 25 attack on a Tel Aviv street claimed by Islamic Jihad, which wounded twenty-five, some critically. On January 27, Wafa' Idris carried out the first suicide bombing claimed by the al-Aqsa Brigades, and the first in which a woman was the perpetrator.

Palestinian officials and Fatah leaders blamed the breakdown of the December 2001-January 2002 cease-fire on what they charged were repeated Israeli violations, including several assassinations, an attempted assassination in which two children were killed, and a number of IDF incursions into PA-

³⁶³ "Six Palestinians killed, Israel says," *St. Petersburg Times* (Florida), December 31, 2001.

³⁶⁴ "Sharon tells Norway's foreign minister that Arafat has done nothing," *Agence France-Presse*, January 2, 2002.

³⁶⁵ The IDF initially said the three were armed, but subsequently said no weapons were found on them. See "Three Palestinians killed in Gaza were from Popular Resistance Committee," *Agence France-Presse*, December 31, 2001. The IDF returned the bodies of the three on January 3, 2002. Photographs of the three bodies led to charges that their bodies had been mutilated. On January 23, 2002, the IDF announced the results of an investigation, saying that they had been killed by tank shells packed with flechettes, and that one of the bodies had been run over by a tank.

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controlled areas, culminating in the assassination of al-Karmi.³⁶⁶ “[The cease-fire] came out of real efforts by the PA,” a top PSS official told Human Rights Watch. “Thirty-two Hamas and Jihad institutions were closed and we controlled the mosques. We asked for seven days [reference to Prime Minister Sharon’s insistence on “seven days of absolute quiet”] and we got three weeks. It was Fatah people like Marwan Barghouti who made it happen. The Israeli ‘thank you’ was to assassinate al-Karmi. You think we can arrest somebody today? This is fantasy.”³⁶⁷

Some Israelis also saw the al-Karmi assassination as pivotal. Aluf Benn, diplomatic correspondent of the Israeli daily *Ha’aretz*, wrote retrospectively that it “was the war’s turning point.”³⁶⁸ Several days after al-Karmi’s killing, Dalia Rabin-Pelosoff, then Israel’s deputy minister of defense, said, “Every time there appears to be some sort of respite on the ground, something happens, whether by us or by the other side. Recently, in my opinion, we missed an opportunity to make a turning point.”³⁶⁹ Whether or not one accepts this analysis, the cycle of violence that ensued sharply reduced the PA’s capacity to confront the perpetrators and sponsors of attacks against civilians.

PA officials have claimed that they had prepared plans to continue the campaign of arrests of December 2001 and early January 2002, but were unable to do so because of repeated large-scale IDF incursions into West Bank cities, refugee camps, and villages, and increased Palestinian popular hostility toward any PA efforts to restrict the activities of the armed militants. This has remained their refrain when asked about the absence of any steps by the PA against the perpetrators of suicide bombings. Muhammad ‘Abd al-Nabi, a Fatah leader in Dheisheh refugee camp outside Bethlehem, speaking with Human Rights Watch

³⁶⁶ During the cease-fire period, one Israeli soldier was killed on December 25, by infiltrators from Jordan. At least twenty-one Palestinians were killed by Israelis during this period. Most, Israel claimed, were armed or “wanted” militants, but the toll included two children killed when an IDF helicopter-fired missile missed its intended target and hit the car in which they were riding in Hebron on December 17.

³⁶⁷ Human Rights Watch interview, Jerusalem, June 9, 2002. West Bank PSS head Jibril Rajoub told an Egyptian newspaper at the time that more than forty-five Hamas and Islamic Jihad offices “that have political or media activities” had been closed down, but that “charity institutions that offer health or education services” were not. See “Palestinian Security Chief on Cease-fire Decision, Compliance of Hamas,” *Al-Musanawwar* (Cairo), December 28, 2001. Excerpts translated by Foreign Broadcast Information Service (FBIS), document number: FBIS-NES-2002-0102.

³⁶⁸ “In Israel, Too Much to Leave to the Generals,” *Washington Post*, August 18, 2002.

³⁶⁹ Rabin-Pelosoff’s comments on Israel radio were reported in Peter Hermann, “Israel takes Arab city; Army’s incursion in West Bank is its deepest since 1993,” *Baltimore Sun*, January 22, 2002.

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on June 12, 2002, claimed that five days earlier “all security units were put on alert, and the governor had an arrest list ready—including Fatah.” The arrest plans were interrupted by yet another IDF incursion into Bethlehem, he said. Neither he nor other officials in Bethlehem explained the PA’s failure to make such efforts prior to the IDF’s reoccupation of the area, and ‘Abd al-Nabi expressed some relief at having the excuse of Israeli interference. “If Sharon had not done that I’d be in a very hard place,” he said. “ Hamas and [Islamic] Jihad—they should send him a thank-you.”³⁷⁰

Security officials in Bethlehem told Human Rights Watch that in fact a few arrests were nonetheless continuing—discreetly. Majid Hamad Attari, the head of the Preventive Security Service (PSS) in Bethlehem, told Human Rights Watch on June 13, 2002, that the previous day his forces had arrested an Islamic Jihad activist with explosives, who was being held in detention. When Human Rights Watch asked if this arrest had been reported, Attari replied, “It’s not helpful to publicize these arrests.” The authorities, he said, needed “to keep a good face before the Palestinian community while doing its duties.”³⁷¹ Attari’s statement reflected the PA’s continuing reluctance to signal unequivocally that it firmly opposed attacks against civilians.

Human Rights Watch’s discussions with PA and Fatah officials in June 2002 indicated that the PA’s failure to move against the perpetrators of attacks against civilians was most acute in the northern part of the West Bank, in contrast with the central region. PA officials and others in Jenin, for instance, indicated that there had been no notable PA law enforcement initiatives in that area since early January 2002. The PA-appointed governor, Zuhair Manasra, had left the district early in 2002, a consequence, Palestinians there said, of the widespread and often violent hostility among supporters of all factions, including Fatah, to PA policies aimed at returning to political negotiations with Israel. Media accounts confirm the view of independent observers that the political authority of the PA was extremely limited in Nablus as well. PA security installations were also destroyed or heavily damaged in Bethlehem, as in the north, but officials in Bethlehem claimed to be taking measures, however limited, to prevent Palestinian attacks against civilians. This picture of a differential PA political and law enforcement capacity is consistent with reports of other analysts.³⁷² Not coincidentally, Bethlehem was the one locale where the

³⁷⁰ Human Rights Watch interview, Dhaisha refugee camp, June 12, 2002.

³⁷¹ Human Rights Watch interview, Bethlehem, June 13, 2002.

³⁷² Khalil Shikaki, an independent political analyst based in Ramallah, and Graham Usher, the *Economist* correspondent based in Jerusalem, made such observations in conversations with Human Rights Watch in June and July 2002.

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PA, in August 2002, publicly resumed some security-related activities under the terms of an agreement negotiated between Israeli Defense Minister Binyamin Eliezer and PA Interior Minister 'Abd al-Razaq al-Yahya.

Palestinian Authority Payments to Armed Militants

The available evidence of direct PA financial support for armed activities against Israel consists of some twenty documents made public by the government of Israel. The documents detail multiple requests for financial aid to President Arafat or other Fatah leaders between May 2001 and January 2002.³⁷³ In all, seventeen documents contained requests for financial assistance on behalf of 157 individuals or their families; four contained requests for funding in the name of the al-Aqsa Martyrs' Brigades.

No requests in the name of the al-Aqsa Martyrs' Brigades for financial assistance were approved. Six requests on behalf of individuals, totaling sixty-eight individual payments, were approved or authorized. Twenty-seven of these payments were to families of militants who had been killed or jailed, and forty-one were to individuals, many of whom were characterized as "brothers" or "wanted." The available evidence does not indicate whether such financial assistance was of a one-time nature or routine. Almost all individuals appear to be members or activists within the Fatah movement. During the time period of the payments, in the final months of 2000 and throughout 2001, members of the Fatah-affiliated al-Aqsa Martyrs' Brigades carried out shooting attacks against civilians in the Occupied Territories as well as against military targets, and in late November 2001 the al-Aqsa Martyrs' Brigades claimed responsibility for an indiscriminate shooting attack against civilians in the Israeli city of Hadera.

Fatah officials authorized these six requested payments despite widely available evidence that, in at least the cases of two individuals, the named recipients had participated in attacks on civilians in the Occupied Territories. Fourteen of the forty-one individuals for whom payment was authorized were at the time "wanted" by Israel. Twelve of these individuals, in seeking financial assistance, identified themselves as "wanted." Neither the documents nor the accompanying Israeli commentary indicate whether they were wanted for attacks on civilians or for other alleged offenses. In the cases of Ra'id al-Karmi and Atef Abayat, however, President Arafat and other responsible officials knew or should have known of their widely reported (and in al-Karmi's case, self-

³⁷³ The IDF has also publicized payments that appear to have involved the misuse of PA funds, including the use of the PA salaries to fund Fatah branch activities in 1998 and 1999, at a time when Fatah activists openly supported the PA's adherence to the Oslo Accords and security cooperation with Israel.